

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LARRY STEVEN LOPEZ,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. 1:21-cv-00360-HBK

ORDER APPROVING PARTIES' JOINT
STIPULATION UNDER SENTENCE FOUR
OF 42 U.S.C. § 405(g) AND REVERSING
FINAL DECISION AND REMANDING
CASE

(Doc. No. 12)

Pending before the Court is the parties' Stipulation for Remand filed September 23, 2021. (Doc. No. 12). Plaintiff Larry Steven Lopez and the Commissioner of Social Security jointly stipulate to remand this case for further administrative proceedings under sentence four of 42 U.S.C. § 405(g) and for judgment to be entered in Plaintiff's favor. (*Id.*).

The United States Supreme Court held that the Social Security Act permits remand in conjunction with a judgment either affirming, reversing, or modifying the Secretary's decision. *See Melkonyan v. Sullivan*, 501 U.S. 89, 97-98 (1991) (addressing issue of attorney's fees under the Equal Access to Justice Act and calculating deadline using date of final judgment). The *Melkonyan* Court recognized 42 U.S.C. § 405(g) contemplates only two types of remand – sentence four or sentence six. *Id.* at 98. A sentence four remand authorizes a court to enter “a judgment affirming, modifying, or reversing the decision of the Secretary, with or without resetting the cause for a rehearing.” *Id.* at 98 (other citations omitted).

1 Here, the parties' stipulation seeks a remand of the instant case under sentence four, so the
2 ALJ will consider the medical opinions of record and prior administrative findings; reassess the
3 claimant's residual functional capacity; obtain vocational expert to clarify the effect of the
4 addressed limitations on the claimant's ability to perform work in the national economy,
5 resolving any apparent conflicts between this evidence and the *Dictionary of Occupational Titles*.
6 (Doc. No. 12 at 2). The parties further stipulate that Appeals Council will not direct a new
7 hearing but will defer to the ALJ's discretion whether a new hearing is necessary. (*Id.*).

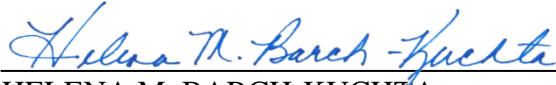
8 Accordingly, it is now **ORDERED**:

9 1. The Court APPROVES the parties' Joint Stipulation (Doc. No. 12).

10 2. The Commissioner of Social Security's decision is REVERSED, judgment shall
11 be entered in favor of Plaintiff, and this case is REMANDED to the Commissioner of Social
12 Security for further proceedings consistent with the parties' Joint Stipulation and this Order under
13 42 U.S.C. § 405(g), sentence four.

14 3. The Clerk is respectfully requested to terminate any pending motions/deadlines
15 and close this case.

16
17 Dated: September 24, 2021


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE